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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,121	09/16/2003	Gregory C. Franke	200302308-4	7147

7590 08/25/2005

Intellectual Property Administration
Legal Department, M/S 35
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

LAVINDER, JACK W

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/667,121	Applicant(s) FRANKE ET AL.	
	Examiner Jack W. Lavinder	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19,21-23,25-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19, 21-23, 25-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Office Action

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 19, 21-23, 27-31, 34 are rejected under 35 U.S.C. 102(e) as being anticipated by Chiou, 5828553.

Regarding claims 19, 27 and 34, Chiou discloses

- A body portion (3) configured to bend and separate the first retaining arm (21) and the second retaining arm (11), i.e., the shape of the body portion will allow it to bend to separate the first and second retaining arms
- A first retaining arm (21) coupled to the body portion
- A second retaining arm (11) coupled to the body portion
- A disengagement arm (41) coupled to the body portion
- A cam arm (4) having a lock (411)

The applicant argues in their remarks that Chiou does not disclose a body portion that is configured to bend to achieve separation of the retaining arms.

The examiner disagrees. Chiou's body portion (3) is capable of performing the intended function of bending to separate the retaining arms.

Regarding claims 21 and 29, Chiou discloses first and second hooked members (see vertically extending portions of arms 11 and 21).

Regarding claims 22 and 30, Chiou discloses first and second retaining arms having first and second windowed cutouts (111, 211 or 131, 221).

Regarding claim 23, Chiou discloses a cam arm with an angled portion (42) angled away from the body portion (3) in the locked position (figure 1).

Regarding claim 28, Chiou, as applied above to claim 19, and further discloses two cam arm side extensions (42, 43).

Regarding claim 31, Chiou discloses an angled member (411) located on the distal portion of the cam arm.

3. Claims 19, 25, 26, 28, 32, 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen, 6421242.

Regarding claims 19 and 28, Chen discloses

- A body portion (20, 30) configured to bend and separate the first retaining arm (28) and the second retaining arm (36), i.e., the shape of the body portion will allow it to bend to separate the first and second retaining arms
- A first retaining arm (28) coupled to the body portion
- A second retaining arm (36) coupled to the body portion

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- A disengagement arm, i.e., the portion that extends between the body portion (22) and the retaining arm (28, figure 1)
- A cam arm (10) with two cam arm side extensions (14)

Regarding claims 25 and 32, Chen discloses a rotation stop (the undersurface of the top surface 12 or the bottom edge of the top surface 12 as seen in figure 2) disposed along the cam arm such that the rotation stop impedes the rotation of the cam arm when the rotation stop comes into contact with an upper surface of the body portion.

Regarding claims 26 and 33, Chen discloses a body portion (20) that is substantially linear.

4. Claims 35-40 are rejected under 35 U.S.C. 102(b or e) as being anticipated by Chen, 5870288.

Regarding claim 35, Chen discloses

- A body portion (103) configured to bend and separate the first retaining arm (12) and the second retaining arm (11), i.e., the shape of the body portion will allow it to bend to separate the first and second retaining arms
- A first retaining arm (12) coupled to the body portion
- A second retaining arm (11) coupled to the body portion
- A disengagement arm (10a)
- A cam arm (2 or 3)

wherein the body portion (103), first and second retaining arms (11, 12) and the disengagement arm (10a) are a single piece.

Regarding claim 36, Chen discloses first and second hooked members (111, 121).

Regarding claim 37, Chen discloses first and second windowed cutouts (122, above 112),

Regarding claim 38, Chen discloses an angled member (3 or any portion of 3 or the angle 221a).

Regarding claim 39, Chen discloses a lower end of cam arm (2) in contact with the upper surface of the body portion (10), which functions as a rotation stop.

Regarding claim 40, Chen discloses a body portion that is capable of bending.

5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Jack W. Lavinder at telephone number 703-308-3421.



Jack W Lavinder
Primary Examiner
Art Unit 3677

8/19/05